IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.231 OF 2005

Deepika Arvind Pathak ..Petitioner.

Vs.

The State of Maharashtra & Ors. ..Respondents.

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Ms.Shakuntala Mudbidri for the Petitioner.

Mr.R.J.Mane, AGP for Respondent Nos.1 and 3.

Mr.N.M.Shah with Mr.D.H.Mehta for Respondent No.2.

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CORAM : DR.D.Y.CHANDRACHUD, J.

7th March, 2005.

P.C. :

1. Rule, made returnable forthwith by consent of counsel. Counsel appearing on behalf of the Respondents waive service. By consent, taken up for hearing and final disposal.

2. The Petitioner is the daughter and the Second Respondent the widow of late P.C. Pandya who died

intestate on 28th April, 1999 leaving behind moveable and immovable properties including a plot of land bearing CTS No.260, Plot No.17, Swastik Society, North South Road No.2, Juhu Scheme Vile Parle (West), Mumbai 400 056. The Petitioner has filed a suit for administration (Suit 4194 of 2000) in this Court. In a Notice of Motion therein (Notice of Motion 3005 of 2000) an interim order was passed by a learned Single Judge on 15th December, 2000. On 6th February, 2001 the name of the Second Respondent was mutated in the property register in respect of the plot of land in question as the sole heir of the deceased. The Petitioner filed an application before the City Survey officer, Land Records praying for the insertion of her name as one of the legal representatives of the deceased. The Petitioner has stated that she was informed that since the name of the Second Respondent had already been inserted on 6th February, 2001, her application could not be considered. The Petitioner thereupon filed an appeal under Section 247 of the Maharashtra Land Revenue Code, 1966 before the Superintendent of Land Records. The appellate authority allowed the appeal on 30th April, 2003 and directed the City

Survey Officer, Vile Parle to enter the name of the Petitioner in the column of lessees as an heir of the deceased. Accordingly, the name of the Petitioner was insertedin the property register card by mutation entry 234 on 26th May, 2003. The Second Respondent thereupon filed a revision on 8th July, 2003 and after a lapse of 17 months, on 15th October, 2004 an application for the grant of interim stay came to be filed. The Petitioner filed a reply opposing the grant of interim relief. The impugned order came to be passed on 31st December, 2004 by the Deputy Director of Land Records staying the order of the Superintendent on the ground that the administration suit is pending in this Court and that it was desirable that no legal complication in respect of the suit property should arise.

3. When this petition came up for admission, notice was issued to the Second Respondent and in the meantime, ad interim stay was granted in terms of prayer clause (c) of the Petition of the order passed by the Deputy Director of Land Records. The Second Respondent has appeared in response to the notice. At this stage, since the revision is

pending before the Deputy Director of Land Records, it is neither appropriate nor proper for the Court to consider the merits of the respective cases of the parties in these proceedings. Any observations of this Court would only affect the respective contentions of the parties before the authority below. In the circumstances, this Petition is disposed of by directing the Deputy Director of Land Records to dispose of the revision application within a period of two months from the date on which parties appear before him for directions. All the rights and contentions of the parties are kept open. In the meantime, the ad interim order dated 10th February, 2005 shall continue to operate until the revision application is disposed of. The parties are agreed that they shall maintain the status quo. The parties shall appear before the revisional authority on 21st March, 2005 for directions in regard to the early disposal of the proceedings. The Petition is accordingly disposed of. There shall be no order as to costs.